

**IN THE DRAWINGS**

Formal drawings for Figs. 1 - 10 are being submitted as replacement drawings.

REMARKS

Claims 1 - 3 are pending. Claims 1 and 2 have been amended. Claim 3 has been added. No new matter has been introduced. Reexamination and reconsideration of the application are respectfully requested.

In the June 27, 2005 Office Action, the Examiner stated that corrected drawings in compliance with 37 C.F.R. § 1.121(d) are required to be filed. The applicant is submitting formal drawings and believe the drawings to be in compliance with 37 C.F.R. § 1.121(d).

In the June 27, 2005 Office Action, the Examiner rejected claim 1 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,764,607 to Maeda et al. ("the Maeda reference") in view of U.S. Patent No. 6,469,239 to Fukuda ("the Fukuda reference"). The Examiner rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over the Maeda reference in view of the Fukuda reference and further in view of U.S. Patent No. 6,434,103 to Shitara et al. ("the Shitara reference"). These rejections are respectfully traversed, in so far as they are applicable to the presently pending claims.

Independent claim 1, as amended, distinguishes over the cited references.

Independent claim 1 recites:

A digital-audio-signal recording apparatus, comprising:  
a storage section storing digital audio data;  
a write section that writes data on a disk-shaped storage medium;  
and

a control section that, when a write operation is to be performed by said write section for writing the digital audio data, stored on said storage section, to the disk-shaped medium, **first performs control, without erasing file management information on said storage section, such that the digital audio data stored on said storage section can not be accessed by any operation other than said write operation**, then

causes said write section to write the digital audio data to the disk-shaped storage medium, and then erases the digital audio data from said storage section after completion of the writing of the digital audio data to the disk-shaped storage medium.

Claim 1, as amended, distinguishes over the cited references. The Examiner states that the Maeda reference discloses the highlighted limitation in col. 8, lines 24 - 32 and 55 - 59 and in col. 9, lines 2 - 8 and 15 - 20. The Examiner points to Steps S35 - S37 and states that this discloses performing control (*Office Action, page 3*). Specifically, the Maeda reference discloses erasing the original digital copying management information in S35 to S37 in the disk to be copied from, then performing the digital copying in S38 - S44 and updating the management information at the copy destination after the copying has been completed in S45 - S47. (*Maeda, col. 9, lines 15 - 21*). The Examiner also specifically states that existence of data is recognized only by management information in TOC 11, which is not on either the copied disk or the reproduced disk. (*Office Action, page 3*).

This is not the same as a digital-audio-signal recording apparatus including a storage section, a write section, and a control section, that when a write operation is to be performed by said write section for writing the digital audio data, stored on said storage section, to the disk-shaped medium, **first performs control, without erasing file management information on said storage section, such that the digital audio data stored on said storage section can not be accessed by any operation other than said write operation.** In the Maeda reference, the original digital management information is erased (*Maeda, col. 9, lines 15 - 18*), before the data is copied from one disk to another, which is the exact opposite of performing **control, without erasing file management information, such that the digital audio data cannot be accessed by**

**any operation other than said write operation.** The applicants also believe that in the Maeda reference, if another operation (besides a write operation) was initiated, the information reproduction apparatus may respond using the management information stored in the TOC memory 11. This is in contrast to the control section of claim 1, where **the digital audio data stored on said storage section can not be accessed by any operation other than said write operation.** Accordingly, applicant respectfully submits that claim 1, as amended, distinguishes over the Maeda reference.

The Fukuda reference does not make up for the deficiencies of the Maeda reference. The Examiner utilizes the Fukuda reference to disclose the erasing of the digital audio data from said storage section after completion of writing of the disk-shaped storage medium. (*Office Action, page 4*). The Fukuda reference specifically discloses the starting of transferring of music data from a music server 50 to a portable recording and reproducing apparatus 70. The reproduction of the compression music data which has already been transferred to the apparatus is inhibited. The Fukuda reference discloses that a reproduction inhibition flag, indicative of the inhibition of the reproduction set, is set to a high level at a time point of the completion of the move of the music to the reproducing apparatus 70. (*Fukuda, col. 18, line 64 - col. 18, line 17*). In other words, the reproduction inhibition flag is set after completion of transfer or copy of the music to the portable recording and reproducing apparatus.

This is the exact opposite of a digital-audio-signal recording apparatus including a storage section, a write section, and a control section that, when a write operation is to be performed by said write section for writing the digital audio data, stored on said storage section, to the disk-shaped medium, **first performs control, without erasing**

**file management information on said storage section, such that the digital audio data stored on said storage section can not be accessed by any operation other than said write operation.** It is the exact opposite because the Fukuda reference discloses that a control action (the setting of the reproduction inhibition flag) occurs after the transferring or copying of the music data has occurred and is not disclosing **first performing control**, i.e., before the copying of the music data, as is recited in claim 1. Accordingly, applicant respectfully submits that claim 1, as amended, distinguishes over the Fukuda / Maeda combination.

In addition, the applicants also believe that the Fukuda reference and the Maeda reference are not properly combinable. The applicants believe that the Fukuda reference teaches away from both the Maeda reference and the claimed invention. In the Fukuda reference, the control action occurs after copying of the music data has occurred, while in the Maeda reference, first the management information is erased and then the copying of the music occurs. The Fukuda reference discloses perform the exact opposite function of the Maeda reference and is thus teaching away from the Maeda reference. Teaching away from the art is a *per se* demonstration of the lack of *prima facie* obviousness. *In re Dow Chemical Co.*, 837 F.2d 469, 5 USPQ2d 1529 (Fed. Cir. 1988). Accordingly, the applicant believes that the Fukuda reference and the Maeda reference are not properly combinable. Because the references are not combinable, claim 1 further distinguishes over the Maeda / Fukuda combination.

Claim 2 distinguishes over the cited references. Claim 2, as amended, recites:

A digital-audio-signal recording apparatus, comprising:  
a storage section storing digital audio data, said storage section also storing first information for managing presence of the digital audio data and second information for limiting access to the digital audio data;

a write section that writes data on a disk-shaped storage medium; and

**a control section that, when a write operation is to be performed by said write section for writing the digital audio data, stored on said storage medium, to the disk shaped storage medium, first rewrites, without erasing said file management information on said storage medium, said second information into content such that the digital audio data stored on the storage section can not be accessed by any operation other than said write operation, then causes said write section to write the digital audio data to the disk-shaped storage medium, and, after completion of the writing to the digital audio data to the disk-shaped storage medium, rewrites said first information into content such that the presence of the digital audio data is invalidated.**

Claim 2, as amended, recites similar limitations to claim 1, as amended.

Accordingly, applicant respectfully submits that claim 2, as amended, distinguishes over the Maeda / Fukuda reference combination.

The Shitara reference does not make up for the deficiencies of the Maeda and the Fukuda references. The Examiner utilizes the Shitara reference to disclose that an adjustment of an invalidity flag associated with the additional information file results in the file being erased. (Office Action, page 7). The Shitara reference disclosure of an adjustment of an invalidity flag is akin to the rewriting of the first information into content and does not disclose the rewriting of the second information. Accordingly, the Shitara reference cannot disclose an audio digital-audio-signal recording apparatus including a storage section storing digital audio data, said storage section also storing first information for managing presence of the digital audio data and second information for limiting access to the digital audio data, and **a control section that, when a write operation is to be performed by said write section for writing the digital audio data, first rewrites, without erasing said file management information on said storage medium, said second information into content such that the digital audio**

**data stored on the storage section can not be accessed by any operation other than said write operation.** The Shitara reference cannot disclose this because it does not disclose the utilization of second information for limiting access to digital audio data, as is recited in claim 2. Accordingly, applicant respectfully submits that claim 2, as amended, distinguishes over the Shitara / Maeda / Fukuda combination.

Claim 3 distinguishes over the cited references. Claim 3 recites:

A digital-audio-signal recording apparatus, comprising:  
a storage section storing digital audio data;  
a write section that writes data on a disk-shaped storage medium;  
a control section that, when a write operation is to be performed by said write section for writing the digital audio data, stored on said storage section, to the disk-shaped medium, **first sets an erasure state flag within file management information to an erased state, without erasing the file management information on said storage section, such that the digital audio data stored on said storage section can not be accessed by any other operation than said write operation,** then causes said write section to write the digital audio data to the disk-shaped storage medium, and then erases the digital audio data from said storage section after completion of the writing of the digital audio data to the disk-shaped storage medium.

Claim 3 recites similar limitations to claims 1 and 2. Accordingly, claim 3 distinguishes over the Maeda / Fukuda / Shitara combination for similar reasons to those discussed above in regards to claims 1 and 2. Claim 3 further distinguishes over the cited references. The Maeda reference does not disclose a digital-audio-signal recording apparatus including a storage section, a write section, and a control section that, when a write operation is to be performed by said write section for writing the digital audio data, stored on said storage section, to the disk-shaped medium, **first sets an erasure state flag within file management information to an erased state, without erasing the file management information on said storage section, such that the**

digital audio data stored on said storage section can not be accessed by any other operation than said write operation. As discussed above, the Maeda reference discloses only that the file management information is erased and does not describe first setting an erasure state flag within file management information to an erased state. The Maeda reference does not disclose **first setting an erasure state flag within file management information** at all. Accordingly, applicant respectfully submits that claim 3 distinguishes over the Maeda reference.

The Fujuda reference and the Shitara reference do not make up for the deficiencies of the Maeda reference. The Fujuda reference discloses the setting of the reproduction inhibition flag after the transferring or copying of the music data has occurred, which is not **first setting an erasure state flag within file management information** to an erased state, as is recited in claim 3. The Shitara reference does not disclose first **setting an erasure state flag within file management information to an erased state** at all. Accordingly, applicant respectfully submits that claim 3 further distinguishes over the Maeda / Fujuda / Shitara combination.

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Applicant believes that the claims are in condition for allowance, and a favorable action is respectfully requested. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles telephone number (213) 488-7100 to discuss the steps necessary for placing the application in condition for allowance should the Examiner believe that such a telephone conference would advance prosecution of the application.

Respectfully submitted,

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